

REMARKS

This is in response to the Office Action mailed on June 4, 2004, and the references cited therewith.

Claims 1, 16, 27, 28, 43 and 54 are amended. Claims 1-54 are now pending in this application. The amendments are made solely to correct minor grammatical errors and not in response to art.

§101 Rejection of the Claims

Claims 1-54 were rejected under 35 USC § 101 as being unpatentable because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed. The method claims have been amended solely to indicate that they are implemented by a computer. The term computer is meant to be construed broadly as including any type of device or processor that can be used to implement the methods. A processor is defined on page 6, lines 19-29. Each of the method claims and device claims recite a practical application, that of selecting sensors from a sensor network for tracking a target as recited in claim 1. Not only is the practical application recited in the preamble of each method claim, at least one of the elements from each of the independent method claims actually selects a sensor. This provides a useful, concrete and tangible result as required in *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368 at 1373, 47 USPQ2d 1595 at 1601-02 (Fed. Cir. 1998). The fact that an algorithm is used to do it, should not make the claim non-statutory.

Pursuant to MPEP 2106 II A, “Office personnel have the burden to establish a prima facie case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101.” No prima facie case has been established by the mere allegation that “Claims 1-54 recite mathematical algorithm without any limitation to a practical application.” Thus, the rejection should be withdrawn. Further, Applicant has specifically identified the practical application above.

Independent claims 28, 43 and 54 recite actual networks of sensors for tracking objects. Applicant does not understand how an actual apparatus can be non-statutory subject matter, and

respectfully request withdrawal of the rejection. These device claims each contain multiple physical elements, such as sensors and a controller. The fact that they implement an algorithm should not make them non-statutory.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 9-7-2004

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of September, 2004.

Name

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Signature

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